STATE OF MICHIGAN

IN THE SUPREME COURT

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v.

ANTHONY MICHAEL OWEN,

Defendant-Appellee.

Supreme Court no. 160150

Court of Appeals no. 339668

Circuit Court no. 15-031675-AR

District Court no. 15-1272-STA

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APPELLANT'S REPLY BRIEF

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STATEMENT OF THE QUESTION PRESENTED

Where (1) the stop occurred on a residential street within the village, (2) the road has a 25 MPH sign going the other way, and (3) almost all the rest of the village has 25 MPH signs, did the deputy reasonably believe that this road (without a sign going that way) is also 25 MPH?

The Court of Appeals answered:	**No**
Plaintiff-Appellant answers:	**Yes**

STATEMENT OF FACTS

Plaintiff relies on the Statement of Facts from its original brief.

ARGUMENT

Because (1) the stop occurred on a residential street within the village, (2) the road has a 25 MPH sign going the other way, and (3) almost all the rest of the village has 25 MPH signs, the deputy reasonably believed that this road (without a sign going that way) is also 25 MPH.

Defendant misses the point. Actually, a number of points.

First, he fails to note that plaintiff's argument is not necessarily exclusively mistake of law. As plaintiff stated in its original brief, "[a]n unambiguous law may be ambiguous as applied to certain situations—like the present one." (P 6). Plaintiff's brief's first paragraph even says: "Whether a mistake of law, a mistake of fact, or a hybrid, the decision to stop defendant was reasonable." (P 3). This Court should look at the totality of the situation and not at the statute alone (which took the trial court and each of the parties a number of months to discover).

Second, defendant never does explain why he did not have the answer right there at the first hearing if the law were really so obvious as defendant now says. As it is, he too had to wait to find out the answer.

Third, defendant's claim about the exclusionary rule misses the very evidence that he cites. MSP Lieutenant Gary Megge used this case as the stimulus for now instructing the recruits on this part of the law. In other words, this case is, to that extent at the very least, just like *Heien v North Carolina*, 574 US 54, 57; 135 S Ct 530; 190 L Ed 2d 475 (2014). The mistake is allowed only once. Afterwards, when the law situation is straightened out, the officer has no excuse for making a mistake.

Fourth, although defendant correctly points out that each of plaintiff's cases can in some way be distinguished, he fails to point to any cases that are closer (or even as close) that support his position.

Fifth, defendant fails to address plaintiff's argument about the Legislature having since changed the law.

In the end, the officer made a reasonable mistake, given the entire situation. This road has a 25 MPH sign going the other way. The road is inside a village where the speed limit is 25 almost everywhere else. It took the court and the parties months to figure out that the speed limit going this way is 55, as counterintuitive as it seems. As no one would naturally come to such a conclusion, the deputy made a reasonable mistake when he concluded that the traffic rules in this village made sense—rather than the other way around.

RELIEF

ACCORDINGLY, once again, plaintiff asks this Court to reverse and remand.

July 9, 2020

Respectfully submitted,

/s/Jerrold Schrotenboer

Jerrold Schrotenboer (P33223)

Jackson County Appellate Prosecutor

PROOF OF SERVICE

/s/Minda Brown

Minda Brown

Legal Secretary